

# Historic Overview of Utah's Property Tax

## 1896

- The original constitution of the State of Utah provided for taxation of all tangible property not exempt under its provisions.

## 1928

- The State Board of Equalization & Assessment recommended reclassification of all taxable real estate every five years.

## 1931

- The Utah State Tax Commission was created. (Utah Constitution, Article XIII).

## 1932

- A systematic appraisal of real estate was begun, starting with Rich County.

## 1944

- The statewide reappraisal begun in 1932 was declared complete after twelve years.

## 1947

- The definition of assessed value was lowered from 100 percent of "full cash value" to 40 percent.

## 1953

- Legislation was passed requiring a complete valuation of all taxable property on a continuous county-by-county rotation basis. However, no specific funds were allocated for this purpose. (Section 54-5-46.1, U.C.A.)

## 1955

- The State Tax Commission property tax manual was adopted as the official standard for appraisal of all buildings and improvements to real property.

## 1961

- Assessed value was reduced from 40 percent of "full cash value" to 30 percent.

## 1966

- The Utah Legislative Council appointed an advisory committee to study the property tax assessment program.

## **1967**

- The Legislative Council Committee's report was not acted on due to a lack of time to study it.

## **1969**

- A report on taxation was submitted to the 1969 Legislature by the Legislative Council Study Committee. Recommendations of the report were generally followed.
- A Statement Revaluation Program was enacted by the Legislature. (Sections 59-5-106 to 111, U.C.A.)
- The Farmland Assessment Act of 1969 was enacted to provide assessment of agricultural parcels on income or productive capacity rather than market value. (Sections 59-5-86 to 105, U.C.A.)
- 106 percent Limitation was enacted to mitigate the tax impact of reappraisal. Assessment rate was set at 25 percent.

## **1970**

- The Revaluation Program began in Summit County.

## **1975**

- Computer Assisted Appraisal System (CAAS) was first used in Utah County.

## **1978**

- The initial revaluation cycle, commenced in 1970, is completed.
- The Utah Legislature passed the 1978 "rollback" law setting values for tax purposes at 1978 base year.

## **1979**

- The Legislature repealed the statewide reappraisal program.

## **1981**

- The Legislature enacted the 20 percent adjustment for transaction costs and other intangibles. (Section 59-2-304)
- An annual assessment sales ratio program was created to replace the reappraisal program. The law requires annual assessment/sales ratio studies with equalization factoring orders every other year.

## **1982**

- The voters passed constitution amendments exempting livestock from property taxation and allowing a residential exemption of up to 45 percent of value.
- A 25 percent primary residential exemption was voted by the Legislature.

## **1983**

- The 1982 Legislature had enacted legislation repealing the 20 percent adjustment for intangibles in the event that the residential exemption passed in the general election. Effective 1/1/83, the 20 percent reduction for intangibles was repealed.

## **1984**

- The Utah Supreme Court decided the Rio Algom case declaring the 1978 rollback law unconstitutional while upholding the 20 percent allowance for intangibles.
- The Utah Legislature met in special session to consider the court's ruling. The Legislature enacted a 40 percent factor to bring values current and reenacted the 20 percent adjustment for intangibles to mitigate the impact of the court's decision. The composite impact was a 12 percent factor of locally assessed real property.

## **1985**

- An assessing and collecting law was enacted allowing counties to set a separate tax rate to cover the costs of administering the property tax system. Counties could choose between setting the levy or continuing to bill direct costs to the various taxing entities (5 counties chose to set a levy in lieu of billing).

## **1986**

- Truth in Taxation legislation was enacted as a trade off to the 106 percent revenue limitation. The laws increased assessment from 20 percent to 100 percent of fair cash value, reduced tax rates by a factor of five, and provided for public disclosure and hearing procedures in the event taxing entities proposed to increase property tax revenues above those provided by real growth on the tax base, i.e., new construction.
- Constitutional exemption of hospitals defeated.
- A statewide levy for the cost of assessing and collecting property taxes was passed and replaced the option to tax or bill for the costs.
- Constitutional exemption of farm machinery and equipment passed.

## **1987**

- The 106 percent revenue limitation was repealed effective 1/1/87.
- The statewide levy for property tax administration was implemented (several lawsuits ensued).

## **1988**

- The tax recodification committee enacted a number of house cleaning measures to simplify and clarify property tax laws. Included defining fair market value to include the 20 percent reduction for intangibles.

## 1989

- Assessors required to be certified within one year after election (no enforcement provisions).
- Escaped property redefined to include valuation errors resulting from incorrect taxpayer information.
- Counties may assess mining claims when not devoted to mining.
- Property taxes to be prorated on property acquired by governmental agencies after the lien date.
- Circuit breaker relief increased and income eligibility expanded and indexed.

## 1990 - The 1990 Legislature:

- Created the Tax Review Commission to replace the Tax Recodification Commission.
- Clarified central assessment of geothermal and airline properties.
- Required taxpayers to submit an estimate of value with any appeal.
- Allowed taxing entities to levy a judgement levy to cover claims arising from payments under protest. Levy exempt from general fund.
- Land acquired by a governmental agency under eminent domain, threat of eminent domain or by donation is exempt from the rollback tax. The acquiring agency must pay an in lieu fee in an amount equal to the rollback tax.
- Required mailing of Valuation and Tax Change Disclosure Notice to all taxpayers regardless of tax increase.
- Passed a statewide appraiser registration and certification law. All persons appraising property for ad valorem tax purposes are required to be registered.

## 1991 - AMAX case and legislation

- In *AMAX Magnesium v. the Utah State Tax Commission*, the Utah Supreme Court found that AMAX was entitled to the same assessment treatment as locally assessed property because the appraisal methodology employed to value AMAX was identical when assessed by the county and the state. The Legislature then acted to remove any potential discrimination in the assessment laws by passing House Bill 397. The key points of House Bill 397 are as follows:
  1. Effective 1-1-91, the residential exemption is increased from 25 percent to 29.75 percent. As of 1-1-92, the residential exemption will be 29.5 percent.
  2. Effective 1-1-91, the 20 percent intangibles deduction is eliminated. Assessing authorities may grant up to a 5 percent deduction for intangible value. The bill requires the Utah State Legislature and the Utah State Tax Commission to perform a study of intangible value by 1-1-93. If no action is taken by the 1993 Legislature, the intangible deduction will be eliminated effective 1-1-94.
  3. Effective 1-1-92, all property required to be registered with the state of Utah will be subject to a fee in lieu of ad valorem property tax. The fee is 1.7 percent of fair market value as determined by the Tax Commission.
  4. These changes will increase the taxable value of certain categories of property and, in most counties, revenues from the in lieu fee will be greater than the property tax revenues currently received on registered property. Any windfall revenues resulting from these changes may only be retained after compliance with Truth in Taxation disclosure requirements.

## **1992 - Residential exemption decreased from 29.75 percent to 29.5 percent.**

- Major Truth in Taxation Legislation. The computation of tax rates was changed providing for the use of:
  1. A 5 year collection rate.
  2. Actual taxes collected instead of taxes levied.
  3. The 1/4 page ad was changed to include additional information.
- The FAA Law was amended:
  1. The \$1,000 gross income requirement was replaced with productivity criteria.
  2. Certain subdivided land was excluded from qualifying for FAA.
- Personal Property - The language "willful refusal" was changed to "failure" to file with regard to the penalty associated with the filing of an affidavit. A second request for an affidavit is required before an estimate is made.
- Lien of unpaid taxes and fees attaches to the personal property.
- Assessors required to become state registered appraiser within 18 months of election.
- Uniform tax on aerial applicators set at 1/2 percent.

## **1993 - Cyclical Appraisal Legislation - 59-2-303.1:**

- Required review of property characteristics once every five year.
- Required annual update of values based on a systematic review of market data.
- Required a five-year cyclical appraisal plan which is to be updated annually.
- Empowers the commission to order corrective action when the following assessment performance standards are not met.
  1. Assessment Levels Standards - 59-2-704.5: Required the commission to adopt rules setting forth assessment level and valuation deviation standards to be used in conjunction with annual ratio study. If a county does not implement commission corrective action order, the commission may implement and bill the county.
  2. Requires an assessor to become a registered appraiser within 18 months of taking office or the office is vacated and the county governing body appoints a replacement.
  3. Assessing and Collecting Legislation - 59-2-906 - 906.4. Established a statewide levy of .0003, monies from which are apportioned based on a weighted parcel formula. Established an optional county levy of up to .0002. This levy must be identified separately and is subject to Truth in Taxation.
- Other developments:
  1. Leased Property - The commission ruled that property subject to a financing agreement which required the "lessee" to take title to the property upon final payment was not a lease and the lessor, in this case First Security Leasing, was not liable for the taxes. (This decision is on appeal to the Supreme Court).
  2. Developers Discount - The Utah Supreme Court found that application of a developer's discount or the absorption method of valuing subdivision lots violated the constitutional requirement of uniform and equal taxation.

## **1994**

The 5 percent adjustment for intangibles is sunset. Increased the primary residential exemption from 29.5% to 32%.

## **1995**

- Increased the primary residential exemption from 32% to 45%.
- Required taxing entities (counties, cities, schools and special districts) to place any proposed increase in property taxes to a vote of the people for 1995 and 1996. This includes newly incorporated entities.
- Allowed taxing entities to exceed their statutory maximum tax rate limits in order to maintain the same amount of property taxes as were collected in the previous year.
- Required an adjustment in the certified tax rate to eliminate any windfall in Uniform Fee revenue from motor vehicle assessments resulting from a lowering in the Uniform School Fund tax rate.
- Prevented any reduction in tax increment funds for redevelopment agencies that might result from a reduction in the Uniform School Fund tax rate.

## **1996 - The 1996 Legislature:**

- Created a blue ribbon task force to study the elimination or reduced reliance on property tax.
- Reduced property tax funding for the basic school levy by \$30,000.
- Provided certified rate calculation procedures for newly incorporated cities.

## **1997 - The 1997 Legislature:**

- Allowed counties to impose an additional sales tax of 1/4 percent beginning in 1998; requires the certified tax rate for the county be decreased on a one-time basis to offset the estimated sales tax revenue.
- Allowed certain municipalities to impose an additional resort communities sales tax; required them to decrease their certified tax rate on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue.
- Reduced the uniform fee-in-lieu from 1.7 percent to 1.5 percent, effective January 1, 1998; required certified rates must be adjusted upward to offset any taxing entity revenue losses.
- Required the Tax Commission to deliver a judgment on centrally assessed appeals within two years, or the case automatically goes to district court with a new trial.
- Required tax rates be set on undisputed values; required counties to escrow taxes collected on disputed portion of centrally assessed values.
- Truth-in-taxation changes:
  1. Eliminated the election requirement for a property tax increase.
  2. Exempted the judgment levy from truth in taxation for tax years beginning January 1, 1997.
  3. Revised the Truth in Taxation advertisement to show the effect of a tax increase on an average home and on an average business.
  4. Authorized the Tax Commission to adjust a taxing entity's certified rate without a truth in taxation hearing if a mistake was made on the previous year's assessment roll.
- Codified the collection and distribution provisions of Tax Commission rule R884-24P-56 effective January 1, 1997, for state assessed motor vehicles (see Tax Bulletin 13-96).
- Redefined income eligibility requirements for circuit breaker relief; increased circuit breaker credit up to a maximum of \$577 and maximum eligible income to \$21,644.

## **1998 - The 1998 Utah Legislature:**

- Reinstated the requirement that taxing entities must obtain voter approval before imposing a tax rate that exceeds the certified tax rate for the calendar year beginning January 1, 1998 and ending December 31, 1998. Lawmakers made several exemptions from this requirement:
  1. school districts, except in the case of a voted leeway election; and
  2. municipalities and/or counties and special service districts if voters already had previously approved a taxation increase.
- Required taxing entities, before imposing a tax rate that exceeds the certified tax rate to advertise and hold Truth in Taxation hearings on the fourth Tuesday in June, on or after 6 p.m.
- Exempted taxing entities with less than \$15,000 in ad valorem tax revenues from the advertisement requirements of Truth in Taxation, effective for the 1998 property tax year.

## **1999 - The 1999 Utah Legislature:**

- Required (effective 5/3/99) additional information be included on the Truth in Taxation's "Notice of Proposed Tax Increase" advertisement to indicate:
  1. the percentage of increase as well as the increase in dollar amount per year and per month on an average residence, and,
  2. the dollar amount of increase per year on a business having the same value as the average value of a residence in the taxing entity.
- Effective 1/1/99, judgment levies are subject to truth-in-taxation and prohibits a taxing entity from imposing a judgment levy if the amount of the judgment is lesser than the smaller of \$1,000 or 1% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year. A judgment levy is an additional tax rate imposed to offset a shortfall stemming from a Tax Commission or court decision that significantly reduces an entity's tax base.

## **2000 - The 2000 Utah Legislature:**

- Modified the tangible personal property tax inventory exemption as it applies to manufactured and mobile homes. The exemption does not apply to a manufactured and mobile home sited at a location where occupancy could take place.
- Allowed the Tax Commission to grant a waiver of the acreage requirement for green belt if the property fails to meet the acreage requirement solely as a result of an eminent domain proceeding. The governmental entity acquiring the property by eminent domain must make a one-time in lieu fee payment to the appropriate county assessor.
- Granted county treasurers the option of providing notice of delinquent property taxes by sending a notice in the mail.
- Modified, for certified tax rate purposes, the calculation of new growth by excluding an increase in taxable value resulting from a change in the method of apportioning taxable value prescribed by the legislature, a court, or the commission in an administrative rule or order.
- Repealed requirement that a judgment must be unpaid to qualify for imposition of a judgment levy. An eligible judgment must be a final and unappealable judgment or order issued no more than 14 months prior to the day on which the "Notice of Valuation" is to be mailed. Unless otherwise agreed to, all refunds and interest ordered are to be paid within 60 days of the date the refund is ordered. However, if a judgment levy is imposed, the refund is to be paid no later than December 31 of the year in which the judgment levy is imposed.

# The Property Tax System

Property taxes may be levied by the State of Utah and most of its political subdivisions, including all counties, all cities and towns, all school districts and most special service districts. Authority to levy depends upon enabling statutes.

## Local Assessment

The county assessors establish taxable values for most properties -- real and personal -- within their counties including residences and businesses that are entirely located within county borders. All taxable real property is appraised at 100 percent of its fair market value based upon its status and location as of January 1 each year.

County assessors are required to follow generally accepted appraisal practices which include the three approaches to value: cost, comparable sales, and income. The cost approach measures the value of the property based upon the cost to construct or replace, with allowances for age and condition as well as functional and economic obsolescence. The comparable sales approach is simply a comparison of similar properties in a neighborhood using recent sales data. The income approach computes the value of the property by capitalizing the income the property is capable of producing. Qualifying farmland is appraised based on its productive capacity.

## Personal Property -- Valuation Methods

The State Tax Commission annually prepares recommended valuation guides and schedules for county assessors. Schedules are developed in one of two ways:

1. Several property categories are valued based upon a "replacement cost new" approach using IRS class life information. For these categories, market value is calculated by multiplying the acquisition cost by a "percent good" factor computed from the IRS class life. For example, medical equipment acquired new in 1995 for \$100,000 will have a 1999 market value of \$70,000 ( $100,000 \times .70\%$  [percent good factor] = \$70,000).
2. Motor vehicles other than Passenger Cars, Light Trucks and Vans are valued using a "percent good" factor as well. Those include heavy and medium-duty trucks, motor homes, off-road recreational vehicles, boats and street motorcycles. They are appraised using a market approach based upon industry valuation guides. For example, boat assessments are based upon the *ABOS Marine Blue Book* guides and heavy trucks are valued using *The Truck Blue Book*.

When, in the opinion of the county assessor, local conditions and property values are not reflected by these schedules, the assessor may estimate market value using other acceptable appraisal data and techniques. However, if the assessor intends to deviate from an entire schedule, a written request with supporting documentation must be submitted to the Tax Commission for approval.



# Central Assessment

The State Tax Commission's Property Tax Division is mandated by the Utah Constitution to assess the real and personal property of airlines, railroads, utilities, natural resource properties, geothermal fluids and geothermal resources and other businesses whose operations cross county or state lines. This is primarily because of the complexity and the nature of certain types of property. Once those values are set, the Tax Commission apportions the value to the counties. There are two primary types of centrally assessed property: unitary property and natural resource property. Rail car and state-assessed commercial vehicle companies are a third, more minor category.

## Unitary Property

Unitary property normally includes the property of utilities and transportation companies. This would include airlines, electric companies, gas distribution companies, pipeline companies, railroads and telecommunication companies.

The *unit method* of appraisal is applied to unitary property. Historically, the Tax Commission has applied the *unit method* of appraisal, by valuing an integrated group of assets functioning as an economic unit as "one thing," without reference to the independent value of the component parts. The logic of this concept is that informed buyers and sellers will most likely buy or sell a viable operating unit. This method takes into consideration a "going concern" that has a customer base vs. a new company that has to build its customer base.

However, an April 1997 decision by the State Tax Commission addressed the taxability of "intangibles" (such as the value of a "going concern," customer base and good will) and instructed the agency to place more emphasis on the "cost approach" (see below) in valuing centrally assessed companies. The ramifications of this ruling are not yet known and litigation will likely further define its meaning.

Most of the unitary companies assessed by the Property Tax Division are regulated to some degree and government regulation strongly influences property values. This is particularly true of a public utility which is allowed to operate as a monopoly enterprise in an otherwise competitive business environment.

There are three standard approaches to value for a unitary company: cost approach, income approach, and the stock & debt approach. The Property Tax Division attempts to perform all three approaches of value on each unitary company it assesses. After all have been completed, the appraiser will correlate the approaches into a final estimate of value for the unit.

## Cost Approach

The cost approach is based on the principle of substitution. This means that, all other things being equal, people will not pay more for a property than the cost of a satisfactory substitute with equal functionality.

## Income Approach

This involves any method that converts future anticipated income into present value. The conversion process is commonly known as income capitalization. The income approach is premised on the assumption that investors will discount expected income at its attendant risk rate over its anticipated duration. The income approach is a conceptually sound method to estimate market value for income-producing properties, but it requires many difficult estimates and judgments.

## Stock & Debt Approach

This is used as a surrogate for the market sales approach in valuing railroad and public utility properties, as sales of complete railroads and public utility companies are rare. The conceptual basis for the stock & debt approach is an accounting principle which holds that the total value of a firm's assets is equal to the total value of its liabilities, including stockholders' equity. For firms that have publicly traded securities, market prices can be obtained for sales of fractional portions of these debt and equity securities.

## Allocation

When utility or railroad property extends into two or more states, the Property Tax Division is required to first estimate the value of the system or unit in all states, and then allocate a portion of the unit value to Utah. The goal is to reasonably reflect the property values contained in each state. The Western States Association of Tax Administrators has developed standard allocation formulas for utilities and railroads; for the most part, the Property Tax Division adheres to these standard formulas.

## Apportionment

After the Property Tax Division has determined an allocated state value, the most important process -- insofar as county officials are concerned -- is apportioning this state value to the individual taxing areas of the state.

**Example:** An international telecommunications company is valued by the state of Utah at \$35 billion. The Utah portion of that company's operations represents 0.65 percent, or \$227.5 million. The Tax Commission then allocates that value to the counties depending upon the company's physical presence in each county.

Formulas are also used to apportion the allocated state value down to the individual taxing areas. Utah law states that railroad and freight company rolling stock should be apportioned according to the ratio of miles of track or miles of principal highways located in a particular taxing area to the total miles of track or highway located in the state. All property located on site is apportioned according to the ratio of cost of property in the taxing area to the total cost of all stationery (non-rolling stock) property in the state. As the law was silent on how to apportion airline flight equipment, a similar formula has been used employing miles of flight path. However, the Utah Supreme Court April 30, 1999 declared that method unconstitutional. In its decision, the Court instructed the Tax Commission to abandon its apportionment method based on miles of flight path, and develop a method to apportion airline flight equipment value based upon a tangible or substantial contact with the taxing entity.

## Natural Resource Properties

The Property Tax Division has divided resource properties into five major categories: oil & gas, metal mining (copper, gold, silver, etc.), non-metal mining (limestone, salt, gilsonite, phosphate, etc.), coal, and sand and gravel.

A Tax Commission administrative rule states that discounted cash flow is the preferred method for valuing productive mining property. Utah law states that, "in no event may the fair market value of the property be less than the fair market value of the land, improvements and tangible personal property."

## **Oil & gas property**

The Tax Commission also uses a traditional discounted cash flow methodology that values these properties based upon estimates of a well's productive future. A summation value of the land, improvements and personal property is also performed. If this summation value is greater than the discounted cash flow value then, by statute, the summation value represents the value of the property.

## **Rail Car Companies and State-Assessed Commercial Vehicles**

Rail car companies refer to the rolling stock of private railroad car companies that pass through the state. State-assessed commercial vehicles refer to the rolling stock of motor carrier freight and passenger companies that pass through the state. The Tax Commission assesses these companies and also collects the tax, then distributes the tax back to the counties.

# Taxable Value vs. Market Value

## Real Property

The taxable value of a property is 100 percent of its fair market value, less any exemptions that may be permitted. For example, the Utah Constitution permits the legislature to exempt up to 45 percent of the fair market value of primary residential property from property taxation. That exemption is currently set at 45 percent. Rental properties are eligible for the exemption; secondary homes and business properties are not.

**Example:** A primary residence with a fair market value of \$100,000 would be valued for property tax purposes at \$55,000.

## Taxable Value As a Percent of Market Value

Type of Property	% of Market Value
1) Primary Residential Property	55% (100 x .55)
2) Other Locally Assessed Real Property	100%
3) Centrally Assessed Property (utilities, mines, airlines, railroads, etc.)	100%

## Personal Property

All personal property is assessed at 100 percent of its fair market value as of January 1, except mobile homes used as primary residences. Primary residential property receives a 45 percent exemption. (As with permanent structures, a primary residential property is any dwelling used as a person's primary residence, including a mobile home, but does not include transient residential uses.) Taxable value is the value against which the tax rate is applied to compute taxes charged.

All taxable personal property is valued and assessed based on its status and location as of January 1 each year, except transitory personal property. Transitory personal property is assessed depending upon the number of days it is present in the state, regardless of when it enters the state. A minimum assessment of one fourth of the full year's assessment is required for any length of time less than three months.

# Cars, Trucks & Uniform Fee-in-lieu

Most Utah motor vehicles are subject to either an age-based uniform fee or a 1.5 percent uniform fee that must be paid before the vehicle can be registered in Utah. Following is a brief explanation of the two fees and how they are calculated and collected.

## Age-based Uniform Fee

The age-based uniform fee is determined by the age of the vehicle. Vehicles subject to the age-based uniform fee are:

1. passenger cars
2. light trucks, including sport utility vehicles
3. vans

## 1.5 Percent Uniform Fee

The 1.5 percent uniform fee is 1.5 percent multiplied by the taxable value of the vehicle. Vehicles subject to the 1.5 percent uniform fee are:

1. medium and heavy duty trucks
2. recreational vehicles, which includes motor homes, trailers, truck campers, motorcycles, boats, snowmobiles, personal water craft, ATVs, and vehicles registered for off-road use
3. motorcycles

## Age-based Uniform Fee Schedule

For calendar year 2000, use the following schedule to determine the appropriate age-based uniform fee:

Age of Vehicle*	Age-based fee
Less than 3 years	\$150.00
3 to 5 years	\$110.00
6 to 8 years	\$80.00
9 to 11 years	\$50.00
12 or more years	\$10.00

\* The age of the vehicle is determined by subtracting the vehicle model year from the current calendar year.

## Calculating "Tax" Due Using the 1.5% Uniform Fee-in-lieu

Tax on vehicles subject to the uniform 1.5% uniform fee are based on the vehicle's value calculated from separate percent good schedules for heavy and medium duty trucks, off-highway recreational vehicles, street motorcycles, motor homes, boats, travel trailers & truck campers and commercial and utility trailers.

Example:

Year	Make/Model	MSRP x Factor	Percent Good	Value x Rate	Uniform fee
1992	Winnebago Bravo	\$64,482 x 70%	= \$45,137 (rounded)	x 1.7%	= \$767.33

## Business Personal Property

For other types of tangible personal property in the state as of noon on January 1, the taxpayer must file a signed statement with the county assessor in the county where the property is located, by February 1, or other date set by the county. Signed statements for transitory personal property must be filed immediately upon entering the state. If the owner of personal property fails to submit the required signed statement, the assessor is required to estimate the value of the property in question, and that value may not be reduced by the county board of equalization or the Tax Commission. There is also a penalty for failure to file the required signed statement. The penalty is 50 percent of the tax due on transitory personal property and the greater of \$100 or 10 percent of the tax due on other personal property.

## Taxable Value As a Percent

Type of Property	% of Market Value
All Taxable Personal Property (except mobile homes used as primary residences)	100%
Primary Residential Mobile Homes	55% (x .55)

**Example:** A primary residence mobile home appraised for \$20,000 would have a taxable value of \$11,000 (20,000 x .55).

## State Tax Commission Audits

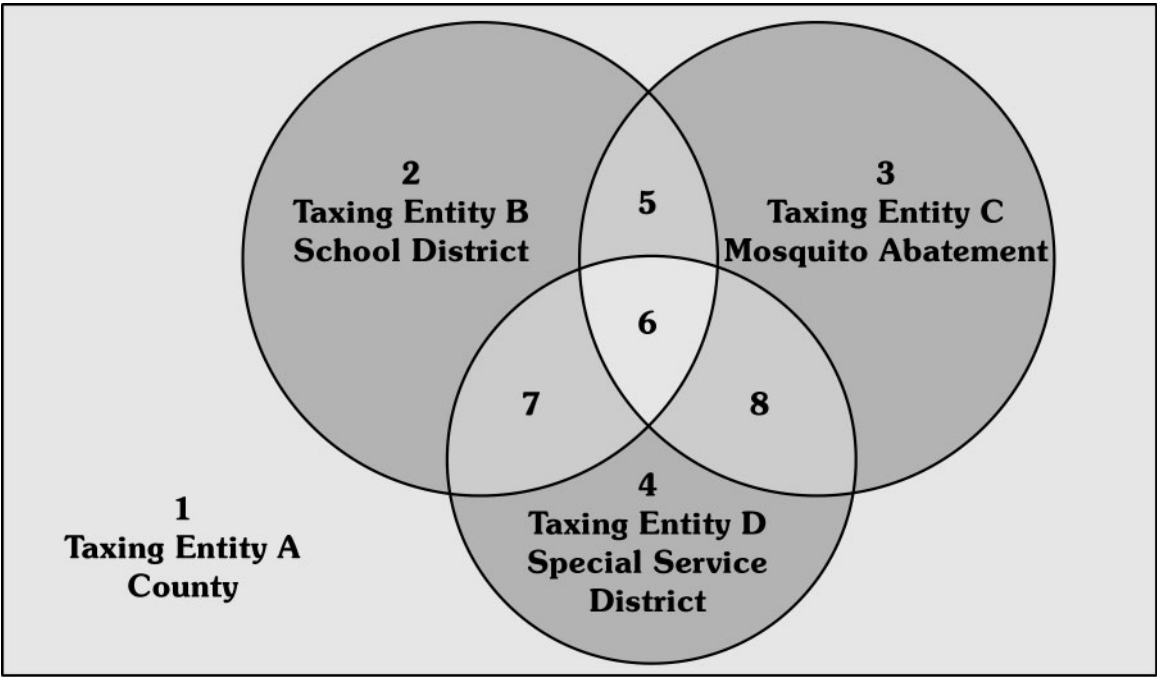
The Tax Commission audits personal property accounts throughout the state each year. Accounts are selected randomly or based upon information provided by the county assessor. Escaped, unreported property can be assessed and taxed for up to five years prior to the date of discovery.

# Situs

Assessors must establish the situs, or the legal location, of property for property tax purposes. A property's situs determines which taxing entities may levy a tax upon it. Situs is generally the tax area where the property is located.

A tax area is any unique combination of overlapping taxing entities. Each taxing entity levies a separate tax rate. Assume, for example, a county has four taxing entities: the county, school district, a mosquito abatement district, and a special service district. These create eight taxing areas with different rates within a county. See "Tax Area Description" below:

## Tax Area Description



The tax area numbers below refer to the numbers in the above illustration.

<b>Tax Area 1</b> Taxing Entity A: County	<b>Tax Area 5</b> Taxing Entity A: County + Taxing Entity B: School District + Taxing Entity C: Mosquito Abatement
<b>Tax Area 2</b> Taxing Entity A: County + Taxing Entity B: School District	<b>Tax Area 6</b> Taxing Entity A: County + Taxing Entity B: School District + Taxing Entity C: Mosquito Abatement + Taxing Entity D: Special Services District

<b>Tax Area 3</b> Taxing Entity A: County + Taxing Entity C: Mosquito Abatement	<b>Tax Area 7</b> Taxing Entity A: County + Taxing Entity B: School District + Taxing Entity D: Special Services District
<b>Tax Area 4</b> Taxing Entity A: County + Taxing Entity D: Special Services District	<b>Tax Area 8</b> Taxing Entity A: County + Taxing Entity C: Mosquito Abatement + Taxing Entity D: Special Services District

## Exemptions

There are two basic types of exemption; those based on ownership and those based on use.

### Ownership

The Utah Constitution exempts certain property based solely on ownership. This includes property owned by the State of Utah and any of its political subdivisions such as school districts, cities and towns, counties or special districts. It also includes federal property unless federal law specifically allows for its taxation. For example, federal law exempts property owned by the Farmers Home Administration which is used for administrative functions. Property held under foreclosure by the FHA is taxable. Property exempt by ownership is not required to meet a use test.

### Use

#### Religious, charitable and educational.

##### Basis

Property owned by a non-profit organization and which is used exclusively for religious, charitable and educational purposes is exempt from taxation.

**Strict Construction:** The principle of strict construction as applied to use exemptions requires that the property be exclusively used for religious, charitable or educational purposes. The fact that a non-profit organization has a charitable purpose as its object is not sufficient to sustain an exemption.

**Partial Use:** Partial Use exemptions may not be granted for prorating the exemption based upon the percentage of time the property is used for charitable work. For example, if a meeting hall is used 25 percent of the time for charitable work and 75 percent of the time for social activities of a fraternal organization, a 25 percent exemption may not be granted.



However, partial use exemptions may be granted to a separate part of a property occupied and used exclusively for religious, charitable or educational purposes. If a building houses a dry cleaning establishment on the first floor and offices for the Boy Scouts of America on the Second Floor, a partial exemption may be granted equal to the value of the second floor.

The actual use of the property and not the use of funds generated by the use of the property controls in granting use exemptions.

**Example:** the Red Cross owns a rental property used as a primary residence and rented at a market rate. The rental income is used to support Red Cross programs. The property is taxable because it is used as a residence.

The use of the property by the property owner and not by a lessee or tenant controls in use exemption determinations. For example, an office building rented to a religious organization at a market rental rate is taxable even though it is used exclusively as office space by a religious organization. The property in the hands of the owner is a rental property.

## **Religious Purposes**

There are no guidelines defining what constitutes use for religious purposes. Generally the courts do not question whether a particular belief or activity qualifies as religious as long as the organization has qualified as a 501(c)(3) religious organization with the IRS.

## **Educational Purposes**

There is no constitutional or statutory definition as to what constitutes use for educational purposes and there have been no Utah court decisions on that issue. The guideline that has been applied by some jurisdictions is to recognize use for educational purposes where the property is used to provide services normally provided by a public school, college or university.

## **Charitable Purposes**

Factors which should be weighed in determining whether a particular organization is using its property exclusively for charitable purposes are as follows:

1. Whether the stated purpose of the entity is to provide a significant service to others without immediate expectation of material reward;
2. Whether the entity is supported and to what extent, by donations and gifts;
3. Whether the recipients of the "charity" are required to pay for the assistance received, in whole or in part;
4. Whether the income received from all sources (gifts, donations, and payment from recipients) produces a "profit" to the entity in the sense that the income exceeds operating and long-term maintenance expenses;
5. Whether the beneficiaries of the "charity" are restricted or unrestricted and, if restricted, whether the restriction bears a reasonable relationship to the entity's charitable objectives; and
6. Whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interest, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones.\*

These factors provide useful guidelines to determine whether a charitable purpose or gift exists in any particular case. Each case must be decided on its own facts, and the foregoing factors are not all of equal significance, nor must an institution always qualify under all six before it will be eligible for an exemption. In addition, the Utah State Tax Commission has issued standards by which it will determine charitable use exemption claims by hospitals.

*(\*This six-factor standard has been adapted from the test articulated by the Minnesota Supreme Court in North Star Research Institute v. County of Hennepin, 306 Minn. 1, 236 N.W. 2d 754, 757 (1975))*

## **Vacant Land**

Vacant land which is not actively used for religious, charitable, or educational purposes is not exempt until construction commences or a building permit is issued for construction of a facility that is intended to be used exclusively for religious, charitable, or educational purposes.

## **Farm Machinery and Equipment**

Farm Machinery and equipment used primarily for agricultural purposes are exempt from taxation. This does not include vehicles required to be registered with the Department of Motor Vehicles or equipment used for business purposes other than farming.

There is a distinction between machinery and equipment used in farm production and machinery and equipment used in processing agricultural products. Farm machinery and equipment used for processing agricultural products is taxable.

## **Other Exemptions**

1. **Burial Lots** - The Utah Constitution exempts places of burial not held or used for private or corporate benefit. Current practice exempts burial lots sold to individuals as personal burial plots.
2. **Livestock**
3. **Inventory**
4. **Household furnishings:** Furnishings, furniture and equipment used exclusively by the owner at the owner's place of abode in maintaining a home for the owner and the owner's family are exempt from property taxation.
5. **Irrigating land:** Certain property owned and used by individuals or corporations for irrigating land by those individuals or corporations is exempt. This exemption only applies to land within the State of Utah.
6. **Irrigation power:** Property used to furnish power for irrigation purposes.
7. **Intangible property**
8. **Certain Tangible Personal Property:** Article XIII Section 14 allows the legislature to exempt from property taxation tangible personal property required by law to be registered with the state. If the legislature exempts such property, it must provide for uniform fees or rates of assessment in lieu of property tax. The legislature has enacted exemptions and uniform fees on all property required to be registered in the state, including aircraft, except antique vehicles and interstate motor carriers regulated by the Interstate Commerce Commission.

# **Tax Administration**

## **Players and Responsibilities**

### **County Recorder**

Provides plats, ownership description changes to the assessor. This information is used to establish taxable situs and taxable status.

### **County Assessor**

The county assessor discovers, identifies and values real and personal property located within the county. The assessor's primary responsibility is to establish market value and taxable value on real property and to establish market value, taxable value and collect personal property taxes. Market value is an appraisal issue. Taxable value is an administrative issue which includes application of the residential exemption and Farmland Assessment Act (greenbelt laws). Utah law requires annual update of values based on a systematic review of market data.

Discovery includes:

- Establishing the existence of property
- Determining its taxable situs
- Determining its taxable status

This includes a review of property characteristics of each property at least once every five years.

### **County Auditor**

The county auditor performs a variety of accounting, auditing, recording and reporting functions in the property tax system.

1. Posting centrally assessed values to the assessment roll.
2. Coordinating with taxing entities and the Utah State Tax Commission to establish tax rates.
3. Mailing the "Notice of Valuation and Tax Change".
4. Extending the tax rolls by applying approved tax rates against values on the assessment roll.
5. Processing tax relief applications.
6. Posting changes in value ordered by the county board of equalization and the State Tax Commission.
7. Maintaining official records of the county board of equalization including taxpayer appeals and religious, charitable and educational exemptions.
8. Notifying taxpayers of board of equalization hearings and decisions.
9. Notifying taxpayers of appeal rights.
10. Advertising, conducting and maintaining records of the May tax sale.
11. Performing a variety of accounting, auditing and settlement functions.
12. Reporting valuation and tax information.

## **County Governing Body**

The primary property tax function of the county governing body is to order/authorize adjustments to the assessment/tax roll.

1. Authorize procedures for county board of equalization.
2. Authorize adjustments to value, including exemptions, as the county board of equalization.
3. Authorize tax relief and other adjustments to taxes charged.
4. Set county budget and tax rates.
5. Authorize procedures for selling delinquent property.

## **County Treasurer**

The primary responsibility of the county treasurer is to collect and disburse taxes.

1. Mail real property tax notices.
2. Collect payments.
3. Manage delinquent accounts.
4. Disburse monies collected to taxing entities.
5. Settle with the county auditor and county governing body for taxes charged.

## **Utah State Tax Commission**

The Utah State Tax Commission has broad powers and responsibilities for administering the property tax system.

1. Serves as the state board of equalization.
2. Provides advice and direction to county officials.
3. Approves tax rates.
4. Equalizes assessments between and within counties.
5. Provides technical assistance and training to counties.
6. Assesses mines, utilities and other properties as required by law.

# How the Roles Fit Together

Function	Players	Responsibilities
<b>1. Identifies Taxable Real Property</b>	<b>Recorder and Assessor</b>	Identify taxable property -- sites/statistics
<b>2. Establish Value</b>	<b>Assessor</b>	Establish FMV* & TV** -- Locally assessed property Establish FMV* & TV** & collects tax on personal property
	<b>State Tax Commission</b>	Establish FMV* & TV** -- state assessed property
<b>3. Value Corrections</b>	<b>County Board of Equalization</b>	Adjust value--appeals, exemption & equalization
	<b>State Tax Commission</b>	Adjust value--appeals, exemption & equalization
	<b>County Auditor</b>	Post centrally assessed values to the property tax roll; Post changes authorized by board of equalization and Tax Commission
<b>4. Establish Tax Rate</b>	<b>Local Governments</b>	Set budgets and compute rates
	<b>County Auditor</b>	Provide value & tax data and assist local governments
	<b>State Tax Commission</b>	Monitor statutory compliance and approve rates
<b>5. Tax Relief</b>	<b>County Governing Body</b>	Grant tax relief--veteran, blind, indigent & circuit breaker
<b>6. Compute Tax Bill</b>	<b>County Auditor</b>	Extend tax roll--Multiply value by tax rate to compute taxes charged.
	<b>County Governing Body</b>	Authorize adjustment to tax bill--approve adjustments based on errors and omissions, illegal & erroneous assessment
	<b>Treasurer</b>	Post adjustments as authorized by BOE
<b>7. Bill and Collect Taxes</b>		
<b>Current:</b>	<b>County Treasurer</b>	Mail bill and collect taxes on real property
	<b>County Assessor</b>	Mail bill and collect taxes on personal property
<b>Delinquent:</b>	<b>County Treasurer</b>	Compute penalties & interest and make collections on real property and attached personal property
	<b>County Assessor</b>	Compute penalties & interest and make collections on unattached personal property
<b>8. Disburse Taxes Collected</b>	<b>Treasurer</b>	Distribute taxes, penalties, interest and miscellaneous money collected to taxing entities
<b>9. Settle and Balance Value and Taxes</b>	<b>County Treasurer, Auditor, Assessor, Taxing Entities County Governing Body</b>	Ensure all taxes have been properly charged, collected and distributed.

\*FMV = Fair Market Value

\*\*TV = Taxable Value

# Equalization

The purpose of equalization is to ensure that all properties are valued and taxed based upon 100 percent of fair market value. Article XIII, Section 2 of the Utah Constitution states that all tangible property in the state that is not otherwise exempt shall be taxed at a uniform and equal rate in proportion to its value. It charges the Legislature with providing a "uniform and equal rate of assessment" according to the property's value.

## Intracounty and Intercounty Equity

The Tax Commission has the responsibility of monitoring intra- and inter-county equity. Intracounty equity refers to the equality or uniformity of assessments within a county, and therefore, taxes should be equitable within and among various classes or categories of property. Intercounty equity refers to the equality or uniformity of assessments among counties. The State Tax Commission is required to monitor and equalize assessments among counties. To that end, the Tax Commission is required to conduct an annual assessment/sales ratio study and order adjustments or corrective action based on the study results.

Utah law further requires that the "commission shall ... order each county to adjust or factor its assessment rates using the most current studies." Accordingly, the Property Tax Division publishes a report, "Assessment/Sales Ratio Study," for each calendar year, to check the proportional equity of the tax revenue contributions of counties to the Uniform School Fund.

## Statistical Analyses: Central Tendency and Variability

The "Assessment/Sales Ratio Study," calculates an estimate to central tendency that reflects the local assessment level in terms of dollars. The uniformity being studied is intercounty equity (among counties), rather than intracounty (variations within a county). The central tendency is calculated for each relevant class and sub-class of property within the county.

Additionally, the Tax Commission uses measures of variability to evaluate the accuracy of a county's assessment function, because those measures indicate how uniformly property is being assessed within a specific county. The measure of variability used in the assessment/sales ratio studies is the "coefficient of dispersion" (COD). The COD is an important indicator of the quality of a mass appraisal system and can be used to make valid comparisons among property classes within a county and among counties.

## Judicial Principle -- Rio Algom Case

The overarching purpose of Article XIII of the Utah Constitution is to achieve uniformity in the ad valorem taxing scheme. The definition of value is one element in a formula designed to achieve that end by establishing a common denominator for valuation purposes. Where "it is impossible to achieve both the standards of the true value, and the uniformity and equality required by law, the latter requirement is to be preferred as the just and ultimate purpose of the law." *Delaware, Lackawanna & Western Railroad v. Neeld*, 23 N.J. 561, 570, 130 A.2d 6, 11 (1957), quoting *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441 (1923).

To assess property at its true value is only one of the fundamental requirements of law. The assessment must further represent the owner's equal portion of the burden of taxation, and if the

assessors have not appraised at full value but only at a fixed percentage of true value, then such treatment must be uniform and equal on all real estate and tangible property, so much so that if both cannot be obtained, then equality must prevail.

*Kittery Electric Light Co. v. Assessors of the Town of Kittery, Me.*, 219 A.2d 728, 734 (1966).

## **Reassessment and Factoring**

The first line of equity is the assessment process.

Section 59-2-201 specifically instructs the Tax Commission to assess all centrally assessed property at 100 percent of fair market value. The county assessor is held to the same valuation standard on locally assessed real and personal property. The county governing body and the Utah State Tax Commission have broad equalization powers and responsibilities.

In addition, the 1993 Legislature passed a law strengthening the requirement that county assessors keep values current on all properties.

... each county assessor shall annually update property values of property as provided in Section 59-2-301, based on a systematic review of current market data. In addition, the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

The Tax Commission has interpreted this statute to mean that county assessors are required each year to readjust assessed values to reflect market values through annual factoring or cyclical physical reappraisal. This method is expected to result in only small changes in property taxes from year to year, rather than when a county reappraises all or a portion of the county once every five years. In a rapidly appreciating real estate market such as Utah is currently experiencing, the new law should also provide more equity among homeowners county-wide.

## **Corrective Actions by the Tax Commission**

If the Tax Commission's sales/ratio study reveals a county's assessment rate is more than 10 percent higher or lower than market value, the Tax Commission may order corrective action. This may take the form of ordering a reappraisal or issuing a factoring order (which requires the county to increase or decrease certain classes of property up or down by certain percentages), or both. The statute says the "adjustment or factoring may include an entire county, geographical areas within a county and separate classes of properties. Where significant value deviations occur, the commission shall also order corrective action."

The methodologies used are the bases for adjusting a county's assessment level to the legal level and for ordering reappraisal to correct problems with assessment uniformity. The Tax Commission assessment standards were developed from those recommended by the International Association of Assessing Officers.

# **Equalization Process -- Players and Responsibilities**

## **County Board of Equalization**

Article XIII, Section 11 of the Utah Constitution states that each county shall have a county board of equalization consisting of the board of county commissioners of that county. The constitution states the county boards of equalization shall adjust and equalize the valuation and assessment of the real and personal property within their respective counties.

The county board of equalization is empowered to take the following kinds of equalization actions:

1. Add property to the assessment roll. (59-2-1002)
2. Make corrections to the assessment roll which may raise or lower property values.
3. Raise or lower the value of a class or group of properties.
4. Adjust assessments based on taxpayer appeals.
5. Grant certain exemptions.

## **County Assessor**

The assessor or a deputy is required to be present during the session of the county board of equalization to:

1. Answer questions
2. Provide information
3. Call and examine witnesses
4. Introduce evidence

The county assessor may initiate valuation adjustments through the county board of equalization. The county assessor may appeal decisions of the county board of equalization to the State Tax Commission.

## **County Auditor**

The county auditor is the clerk of the county board of equalization. As the clerk of the county board, the county auditor:

1. Notifies taxpayers of board hearings and board decisions
2. Notifies taxpayers of rights and procedures for appealing county board decisions to the State Tax Commission.
3. Keeps accurate minutes and records of all county board actions.
4. Posts all changes to the assessment roll as ordered by the county board or the State Tax Commission. The county auditor may not post illegal changes



## **Utah State Tax Commission**

The duties imposed upon the state board of equalization by the Article XIII, Sec 11 of the Utah Constitution and laws of this state shall be performed by the State Tax Commission.

### **A. General Powers**

1. To adopt rules and policies to govern local boards
2. Prescribe forms
3. Reconvene county boards
4. Exercise general supervision over county offices
5. Examine all records relating to the valuation of any property

### **B. Other Statutory Powers**

1. To raise, lower, or otherwise correct any assessment or order a reassessment of any property
2. To extend the dates for county boards of equalization
3. To hear appeals from decisions of county boards of equalization
4. To equalize assessments among the counties
5. To establish assessment level and uniformity standards and order corrective action when not met.

## **Taxpayer**

The taxpayer has the right to appeal assessments to the county boards of equalization (59-2-1004) and to appeal their decisions to the Utah State Tax Commission.

# Truth in Taxation

Utah's "Truth In Taxation" laws were passed in 1985 as a compromise to direct tax limitation. Prior to 1985, property tax revenues were limited to 106 percent of taxes collected in the previous year. The limit was activated only when an entity's tax base was increased as a result of factoring or reappraisal ordered by the Tax Commission. The limit could only be exceeded with voter approval. "Truth in Taxation" laws replaced the 106 percent limit.

The "Truth in Taxation" law imposed specific public notice and public hearing requirements that are triggered when a taxing entity proposes to increase its property tax revenues (not rates) above those collected in the previous year (tax revenues generated by "new growth" in an entity's tax base are exempt from the disclosure requirements). The public hearings are required to allow elected officials to explain the reasons for the proposed increase and allow citizens to comment on any proposed increase.

## A Revenue-Driven System

Utah's "Truth in Taxation" laws are revenue-driven, not rate-driven. That means the requirement to hold a "Truth in Taxation" hearing is based upon the collections of a taxing entity, not the rate charged. Utah law requires "Truth in Taxation" hearings to be held when a taxing entity elects to collect more revenue than was collected the previous year, although the entities are permitted to keep revenues generated by "new growth" -- such as value added to the tax rolls from a new subdivision or a new business.

Because "Truth in Taxation" is revenue-based, a hearing may still be required if an entity's tax rate remains unchanged or even declines. For example, if property values increase 10 percent as the result of reappraisal, but a taxing entity does not lower its rate proportionately, it must advertise and hold a "Truth in Taxation" hearing. The hearing is required because the increase in value is not considered new growth.

The reverse is also true. If an entity's rate increases, but its revenues remain unchanged, no advertisement is required. This most often occurs with a tax shift. For example, if the value of commercial property is decreased, the tax rate must be increased to maintain the same revenues. Since budgeted property tax revenues do not exceed those collected last year, no increase is advertised. However, homeowners see an increase in taxes on the "Notice of Valuation and Tax Change".

Many taxing entities continue to be confused by this concept and attempt to compare the previous year's tax rate with the current year's proposed rate to determine if a tax increase will occur. Under a revenue-driven system, changes in rates are irrelevant.

For this and other reasons, some critics of the current laws argue that the revenue-driven system does not result in "Truth in Taxation" to the individual property owner and that a rate-driven system is preferable. They suggest that the newspaper advertisement be eliminated because property-specific information is contained on the individual "Notice of Valuation and Tax Change".

# Certified Tax Rate

The determination that a property tax increase is being proposed is made by the Tax Commission's Property Tax Division. The certified tax rate -- established by the Property Tax Division, is that rate which will yield the taxing entity the same property tax revenue that it collected in the previous year (and includes an allowance for revenue generated from real new growth in its tax base). That determination is based on a comparison of an entity's proposed tax rate with its certified tax rate.

Example: City A collects \$5 million in taxes during Year #1. A new subdivision and a new shopping center were constructed during the year. In Year #2, a certified rate will be set to permit City A to collect \$5 million, plus generate revenues from the new growth. Revenues collected in Year #2 totaled \$5.75 million. In Year #3, City A will be given a certified rate permitting it to collect \$5.75 million. But in Year #3, it only collects \$5.5 million because of an economic downturn and some individuals and businesses do not pay their property taxes. In Year #4, City A is given a certified rate that permits it to collect \$5.5 million, plus any new growth.

## **Taxes Collected Last Year**

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### **This Year's Taxable Value Minus New Growth**

A certified tax rate is computed for each separate fund or levy. For example, a city may have levies for general operation, library and recreation. If the aggregate proposed tax rate exceeds the aggregate certified tax rate, a tax (revenue) increase is proposed.

# Public Hearing & Notice Requirements

Two forms of public notice are required when an entity proposes a tax increase. First, the county auditor must send a "Notice of Property Valuation & Tax Change" to every property owner. The notice discloses the property's current year's and the previous year's market values, the potential tax impact of the proposed revenue increase, instructions for appealing the property market value, and the date, time, and place of any public hearings where proposed increases will be discussed. In addition, a taxing entity must advertise any proposed increase. The form and content of the advertisement are specified in the law. The advertisement must:

- Be no less than 1/4 page.
- Have type size of at least 18 point.
- Include a 1/4" border.
- May not be placed in the classified ad or legal notice sections of the newspaper.
- Be a newspaper of general circulation and of general interest and readership.
- Published once in each of the two weeks preceding the public hearing.
- The hearing must be held not less than seven days after the day the first advertisement is published.

Exceptions are allowed where there is no newspaper of general circulation or "the cost of the advertisement would cause undue hardship." In such cases the entity may use a Tax Commission-approved direct mail notice or combine its notice with another taxing entity's notice. If the cost of public notice required is greater than one percent of the property tax revenues to be received, an entity may combine its advertisement with other entities, or use a Tax Commission-approved direct mail notice. Also, the newspaper advertisement requirements do not apply to a taxing entity that collected less than \$15,000 in property tax revenue, or in the case of a new taxing entity, that proposes to collect less than \$15,000 in property tax revenue for the current year.

A proposed increase must be advertised in each of the two weeks preceding the public hearing, with the first publication being at least seven days in advance of the hearing. The advertisement must contain information about the impact of the proposed increase on an average home and business, the amount and percentage change in the entity's property tax revenues and the date, time and place of the public hearing. The form and content of the advertisement is set forth in Sections 59-2-918 and 59-2-919.

If an entity fails to comply with the form and content requirements of the advertisement, the Tax Commission may require readvertisement and another public hearing.

The public hearing must be held at least 10 days after the county auditor mails the "Notice of Valuation and Tax Change" and at least seven days after the initial advertisement. Public hearings of overlapping taxing entities may not be scheduled at conflicting times. Taxing entities are required to notify the county auditor of their proposed hearing dates well in advance of the mailing of the notice so that conflicts may be resolved. For taxing entities in which the power to set levies is vested in the same governing body, hearings may be consolidated.

## **Legislative Changes**

### **2000 Legislative Changes**

The 2000 Utah Legislature:

- Modified the calculation of new growth by excluding an increase in taxable value resulting from a change in the method of apportioning taxable value prescribed by the legislature, a court, or the Tax Commission in an administrative rule or order. These changes in value will be treated in the same manner as changes in value due to factoring or reappraisal.
- Repealed the requirement that a judgment must be unpaid to qualify for imposition of a judgment levy. An eligible judgment must be a final and unappealable judgment or order that was issued no more than 14 months prior to the day on which the "Notice of Valuation" (July 22), is to be mailed. Therefore, any judgment issued after May 22, of the previous year could qualify for a judgment levy if all other eligibility requirements are satisfied. Unless otherwise agreed to by a taxing entity and a taxpayer, all refunds and interest are to be paid by the taxing entities to taxpayers within 60 days of the date the refund is ordered. If a judgment is imposed by the taxing entity for the purpose of paying the refund, the refund is to be paid no later than December 31 of the year in which the judgment levy is imposed.

## 1999 Legislative Changes

The 1999 Utah Legislature:

- Requires (effective 5/3/99) additional information be included on the Truth in Taxation's "Notice of Proposed Tax Increase" advertisement to indicate:
  1. the percentage of increase as well as the increase in dollar amount per year and per month on an average residence, and,
  2. the dollar amount of increase per year on a business having the same value as the average value of a residence in the taxing entity.
- Effective 1/1/99, judgment levies are subject to "Truth-in-Taxation" and prohibits a taxing entity from imposing a judgment levy if the amount of the judgment is lesser than the smaller of \$1,000 or 1% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year. A judgment levy is an additional tax rate imposed to offset a shortfall stemming from a Tax Commission or court decision that significantly reduces an entity's tax base.

## 1998 Legislative Changes

The 1998 Utah Legislature:

- For the year beginning January 1, 1998 and ending December 31, 1998, taxing entities must obtain voter approval before imposing a tax rate that exceeds the certified tax rate. Lawmakers made several exemptions from this requirement:
  1. school districts, except in the case of a voted leeway election; and
  2. municipalities and/or counties and special service districts if voters already had previously approved a taxation increase.
- Required taxing entities, before imposing a tax rate that exceeds the certified tax rate to advertise and hold "Truth in Taxation" hearings on the fourth Tuesday in June, on or after 6 p.m.
- Exempted taxing entities with less than \$15,000 in ad valorem tax revenues from the advertisement requirements of "Truth in Taxation", effective for the 1998 property tax year.

## 1997 Legislative Changes

The 1997 Utah Legislature:

- Eliminated the election requirement for a property tax increase.
- Exempted the judgment levy from "Truth in Taxation" for tax years beginning January 1, 1997. (Counties impose a judgment levy to pay for large refunds that result from property tax appeal decisions.)
- Revised the "Truth in Taxation" advertisement to show the effect of a tax increase on an average home and on an average business.
- Authorized the Tax Commission to adjust a taxing entity's certified rate without a "Truth in Taxation" hearing if a mistake was made on the previous year's assessment roll.

## **Other Legislative Action**

The 1995 Utah Legislature took action to offset potential property tax increases due to the Tax Commission factor and/or reappraisal orders for the 1995 tax year. The Legislature required taxing entities (counties, cities, schools and special districts) to place any proposed increase in property taxes to a vote of the people for 1995 and 1996 tax years. This included newly incorporated entities. The Legislature also subjected the basic school levy and the statewide levy for assessing and collecting to truth-in-taxation requirements effective July 1, 1996.

The previous major legislation involving "Truth in Taxation" was passed in 1992. Prior to 1992, there were two major criticisms of "Truth in Taxation", both coming from taxing entities. First, entities complained that the advertisement was misleading because it included increases resulting from new growth in the advertised percentage increase. The 1992 Legislature amended the law and expanded the advertisement to include the nature and cause of the increase as well as the impact to an average home. The calculation of the percentage increase was not changed. Proponents of a revenue-driven system argued that once a tax increase disclosure is triggered, an entity should be required to disclose the entire percentage increase, including that attributable to new growth, because taxpayers may want to lower the current tax rate and not to increase expenditures.

Second, entities claimed that they were not being given full credit for new growth. This occurred when actual growth in the tax base as determined by year-end values was substantially greater than that projected at the beginning of the year. No adjustment was made in the next year to account for underestimations of growth. The 1992 legislation addressed this concern by changing taxes levied to taxes collected in the formula for calculating the certified tax rate. This change adjusts for any over - or underestimation of value when rates are set in June.

## **An Effective Tool**

Utah's "Truth in Taxation" laws have proved to be an effective tool in limiting the rate of increase in property taxes. Prior to the implementation of "Truth in Taxation", property taxes levied had increased at an average rate of 12 percent per year since 1981. Since 1986 the rate of increase has averaged 3.6 percent. Of the 550 plus taxing entities in Utah, an average of 40 entities have proposed increases each year.

In 1989, these facts were instrumental in defeating a 1 percent property tax limitation initiative. At the time, the initiative had gained enough signatures to be placed on the ballot, polls showed a 70 percent to 30 percent rating in favor of the initiative. After an intensive public information campaign which included emphasis of Utah's "Truth in Taxation" laws, the initiative was defeated 70 percent to 30 percent.

Supporters of the current laws point to additional benefits in the form of greater turnout and participation at local government budget hearings and at county board of equalization hearings.

# Tax Shifting and Windfall Revenue

The tax burden of a taxing entity may be shifted from one class of properties to another when the value of one or more large groups -- or classes -- of properties changes dramatically. One example would be a county whose tax base is dominated by oil and gas properties. When oil prices decline, the assessed value of those properties decline as well. In order to raise the same amount of revenues as the previous year, taxing entities have to raise their rates on all properties (residential, locally assessed commercial and other state-assessed properties) to recoup the tax dollars lost in that decline of values.

Tax-shifting is most noticeable when one large taxpayer, such as the Intermountain Power Project, has a change in value. When the IPP was built, the burden of financing local governments was largely shifted from local homeowners and businesses to the immense power plant. But if there is a downward fluctuation in the plant's assessed value -- through a successful tax appeal, for instance -- then the tax rates in the various taxing districts may be increased to generate that lost revenue.

Tax-shifting can also occur when residential property values escalate as they have been in this market, while the value of other classes of property (such as commercial and centrally assessed) remain fairly flat. When residential values shoot up -- and assessed values follow -- in order to bring in the same amount of money, taxing entities are required to bring rates down. However, those residential properties still will see a tax increase. Because residential property only represents a portion of a taxing entity's total tax base, it is not possible to bring rates down low enough to make residential taxes a "wash," without the taxing entity losing overall revenue, compared to the previous year. Another situation that can create a tax shift is when one area is reappraised and the other areas of the county are not.

Generally, government has an overall cost of doing business and certain levels of service must be maintained, particularly in the schools. So, when values plummet, rates generally rise. Again, the "Truth in Taxation" law is revenue-driven, not rate-driven. So, in this case, if County A's property values declined 30 percent, the county could raise rates to recoup the same amount of revenue, but would not have to advertise a "Truth in Taxation" hearing. Even though rates would be increasing substantially (and property tax bills with them), under the "Truth in Taxation" definition that does not constitute a "tax increase."

In an escalating real estate market, one reason local taxing entities cannot reduce rates enough to completely forestall a property tax increase is that the state Uniform School Fund levy remains largely constant. So the Uniform School Fund may benefit from windfalls (or suffer losses) from swings in assessed values statewide.

# Appeals Process and Dates

If a property owner disagrees with the value set by the county assessor on either real or personal property, an appeal may be filed with the county board of equalization. The appeal must be filed within 45 days of the date the "Notice of Valuation and Tax Changes" is mailed. This date appears on the notice. The law assumes that the assessor has established an accurate, equitable value. Therefore, the burden of proof is on the property owner to provide facts to support a claim of erroneous or illegal valuation.

The actual appeal process may vary slightly from county to county. Larger counties employ screening processes and hearing officers. In smaller counties, appeals are brought directly before the county commissioners acting as the board of equalization. Decisions of the county board of equalization may be appealed to the Utah State Tax Commission. This appeal must be filed within 30 days of the mailing of the county board's decision.

## Real Property

The appeal process is initiated by the "Notice of Valuation and Tax Changes." The county auditor is required to mail this notice by July 22nd. For information on how to file an appeal, see Publication 31, "Property Valuation Appeal Process".

### Appeal Deadlines

Taxpayers have 45 days from the date the notice is mailed to file an appeal with the county board of equalization.

The county board of equalization must make and issue written notice of its decisions within a 60-day period after the day on which the application is made. Extensions may be authorized by the State Tax Commission

Taxpayers have 30 days from the date the county board's decision is mailed to file an appeal with the State Tax Commission. For more information on state appeals, see Publication 31, "Property Valuation Appeal Process".

The taxpayer may appeal the Tax Commission's decision to the district court for a trial de novo or appeal directly to the Utah Supreme Court.

## Personal Property

Personal property assessments must be appealed to the county board within 30 days of the date the personal property tax notice is mailed.

The county board should issue its decision within 60 days of the date the appeal is filed.

The taxpayer has 30 days from the date the county board's decision is mailed to appeal to the State Tax Commission. The State Tax Commission has 90 days to issue its decision.



## **Centrally Assessed Property**

Taxpayers must file appeals with the State Tax Commission by June 1st each year. The Tax Commission is to conduct a scheduling conference with all parties to a hearing by August 1st. The Tax Commission should render a written decision no later than 120 days after the hearing is complete and all posthearing briefs are submitted.

# **Delinquent Taxes & Tax Relief and Abatement**

## **Delinquent Taxes**

### **Real Property**

If real property taxes are not paid by December 1, they are delinquent, and a 2 percent penalty is assessed. No payments are processed during December. On or before December 31, the county treasurer has two options for providing notice of delinquent tax:

1. Send a notice in the mail to each delinquent taxpayer, record lien holder and other interested parties
2. Publish a list of all delinquent property showing the owners' names and the property description or identification number.

The list must be published in a newspaper having general circulation in the county. If taxes are not paid by January 1, interest begins to accrue on the unpaid taxes. Interest is charged at a rate equal to the federal discount rate plus 6 percentage points.

The property owner has four years to clear all delinquent taxes. Utah law requires that all payments for delinquent real property taxes must be applied against the most recent year first, and then against the interest, then penalty, and then tax. Thus, a person with delinquent taxes for the years 1995 through 1998 cannot avoid the 1999 final tax sale by requesting to pay the 1995 taxes only.

If delinquent taxes are still due after four years, the property is listed and advertised the following May or June for final sale. This sale is often referred to as the "May Tax Sale" as the sale generally occurs in May. For example, if a property was delinquent in 1994, it would have been offered for sale in 1998. After the tax sale, there is no redemption period. All proceeds in excess of the tax, penalty, interest and administrative costs are to be distributed to the former owner.

Delinquent taxes are noted each year on the tax notice by the message: "Prior taxes are delinquent on this parcel. Final tax sale pending."

### **Personal Property**

Taxes are due within 30 days of the mailing of the tax notice and if not paid must be listed with the real property of the owner to secure payment. Delinquent taxes may also be secured by a bond 20 percent in excess of the amount of the tax and conditioned for payment prior to November 30. If listed with the real property (attached), personal property taxes are paid at the same time and are treated in the same manner as the real property taxes. There is no automatic penalty for failure to make timely payment; however, those property owners who fail to file the signed statement requested by the assessor are subject to a 10 percent penalty or \$100, whichever is greater. Interest on delinquent personal property taxes is also 6 percentage points above the Federal Discount Rate.

Unless taxes on personal property assessed by the county assessor are paid or secured, the assessor may collect the taxes, including accrued interest, by seizure and sale of any personal property owned by the person.

# Tax Relief

Utah law contains provisions to provide tax relief to certain homeowners or renters based upon past military service, disabilities, income, hardship and other circumstances. These forms of relief involve either abatement of taxes or deferral of paying them until later. The categories of relief include veterans exemption, blind exemption, indigent (poor) abatement and deferral, circuit breaker or other relief granted by the county governing body. A person may be eligible for more than one form of tax relief. Excluding indigent relief, when an individual is eligible for various types of statutory tax relief, the individual must be granted all the relief for which he is eligible.

## Veteran's Exemption

A Veteran's exemption was first granted in 1931. Currently an exemption of up to \$82,500 in taxable value on a residence or personal property may be granted to a disabled veteran, to the unremarried veteran's widow(er), and/or to minor orphans. The disability must be at least 10 percent. For veterans whose service was after 1920, the disability must be service-related. Applications must be submitted to the county by September 1 of each year. (*Utah Code Annotated 1953, 59-2-1104 and 1105.*)

<b>Eligibility</b>	Veterans disabled in military service, their unremarried surviving spouse or minor orphans and the unremarried surviving spouse or minor orphans of a veteran killed in action or in the line of duty.
<b>Amount</b>	Beginning January 1, 2000, the exemption is up to \$82,500 of the taxable value of a residence and tangible personal property, based on the percentage of disability. No exemption is allowed for any disability below 10 percent.
<b>Filing Requirements</b>	Applications must be filed with the county governing body by September 1st each year. (In most counties, the county auditor handles the applications). Provide proof of military service and proof of disability (or death). All claims must be made with the county.

## Blind Exemption

Up to \$11,500 in taxable value of real and/or personal property owned by blind persons, their unremarried widow(er), and/or minor orphans is exempt from property taxation. Eligibility depends upon specific vision impairment as attested by a registered ophthalmologist. Applications must be filed annually with the county by September 1. (*Utah Code Annotated 1953, 59-2-1106.*)

<b>Eligibility</b>	Legally blind property owners, their unremarried surviving spouse or minor orphans. There are no income or age requirements.
<b>Amount</b>	Up to \$11,500 of taxable value of real and tangible personal property is exempt from property tax.
<b>Filing Requirements</b>	Applications must be filed with the county governing body by September 1st each year and must include a statement from a registered ophthalmologist. (In most counties applications are handled by the county auditor).

## Indigent (Poor) Abatement

An indigent or poor abatement may be granted in an amount of 50 percent of the taxes levied, not to exceed \$598 for year 2000.

<b>Eligibility</b>	<ol style="list-style-type: none"><li>1. The applicant must be:<ul style="list-style-type: none"><li>o A person 65 years of age as of December 31st of the application year; or</li><li>o A disabled person; or</li><li>o Where extreme hardship might prevail if the abatement were not granted. (There are no standard definitions for "hardship" or "disabled").</li></ul></li><li>2. Household income must be less than \$22,422 for year 2000 (taxable and non-taxable).</li><li>3. The applicant must own and reside in the house not less than 10 months of the year for which the abatement is requested (temporary absence due to illness is not grounds for disqualification).</li><li>4. The applicant must provide own primary financial support.</li></ol>
<b>Amount</b>	The abatement is limited to 50 percent of the property tax due up to a maximum of \$598 for year 2000. For example, if the tax due is \$300, the abatement is \$150. The abatement may only be applied to a residence owned and occupied by the applicant.
<b>Filing Requirements</b>	Applications must be filed with the county governing body by September 1st each year and must include a signed statement describing the circumstances of eligibility.

## Indigent Deferral

A poor/indigent deferral may be granted based on the same eligibility requirements as the poor abatement. The deferral must be approved by the holder of a trust deed or mortgage. The applicant cannot own any income-producing assets which could be liquidated to pay the tax. The deferral becomes a lien upon the property and must be satisfied upon sale or any other transfer of title. The deferred taxes bear interest at 6 percent.

<b>Eligibility</b>	Eligibility requirements are the same as the indigent abatement except that a DEFERRAL may not be granted if the applicant owns income-producing assets that may be liquidated to pay the tax.
<b>Amount</b>	There is no limit on the amount or time of the deferral except that taxes deferred must be paid at the time the property is sold or otherwise disposed of. (As a practical matter the amount deferred should not exceed the value of the property).
<b>Filing Requirements</b>	Application must be filed with the county governing body by September 1st. The application must include written approval of any holder of a mortgage or trust deed.

## Circuit Breaker

Applicable to eligible home owners, mobile home owners and renters.

The circuit breaker law enacted by the 1977 Utah State Legislature provides a relief to elderly and/or low-income widowed homeowners and renters. To be eligible, a person must be 65 years of age, or a widow(er), and receive an annual income not to exceed \$22,422 for year 2000. The credit granted varies in relation to income up to \$598 for year 2000. Application for the homeowner's credit must be filed with the county by September 1st. (*Utah Code Annotated 1953, 59-2-1201 through 1220.*)

<b>Eligibility</b>	<ol style="list-style-type: none"><li>1. Homeowners, owners of mobile homes and renters who are:<ul style="list-style-type: none"><li>o 65 years of age as of December 31st in the year of application; or</li><li>o If under 65 years of age, a widow or widower.</li></ul></li><li>2. Household income from all sources, taxable and non-taxable, can not exceed \$22,422 for year 2000.</li><li>3. The applicant must provide for his or her primary financial support (cannot be claimed as a dependent by another person).</li><li>4. The applicant must be a resident of the State of Utah for the full year for which the credit is claimed.</li><li>5. Only one person per household may qualify for the credit.</li></ol>
<b>Amount</b>	<p>Homeowner - The amount of the credit is based upon the annual household income with a maximum of \$598 for year 2000. For homeowners, beginning January 1, 1999, an additional credit equal to the tax on 20 percent of fair market value of the residence is allowed.</p> <p>Renters - The amount of the credit is based upon a percentage of gross rent paid and household income with a limit of \$598 for year 2000.</p>
<b>Filing Requirements</b>	<p>Homeowners and Mobile Home Owners - Applications must be filed with the county auditor/ treasurer by September 1st.</p> <p>Renters - Applications must be filed directly with the State Tax Commission by December 31st.</p>

## Other Tax Relief

<b>Eligibility</b>	The county governing body has the power to accept less than the full amount of property taxes due or to defer the full amount where, in the judgment of the county governing body, the best human interests and the interests of the state and the county are served. There are no specific eligibility requirements. (Utah Code Annotated 1953, 59-2-1347)
<b>Amount</b>	There is no limit on the amount of tax that may be abated or deferred under this statute. This statute refers to delinquent property taxes and should not be used to reduce and refund taxes already paid.
<b>Application Requirements</b>	<p>Applications must be filed with the county governing body and must include:</p> <ol style="list-style-type: none"><li>1. A description of the property;</li><li>2. The value of the property for the current year;</li><li>3. The amount of delinquent taxes, interest and penalties;</li><li>4. The amount offered in settlement or to be deferred;</li><li>5. Any other information required by the county.</li></ol> <p>A deferral may not be granted without written consent of the holder of any mortgage or trust deed outstanding on the property.</p> <p>Public notice and notice to the Tax Commission must be given for any action taken under this statute.</p>